

Title 16, Division 4. Board of Chiropractic Examiners.

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "Board") is proposing to add regulations described in the Informative Digest below. Any person interested may present statements or arguments relevant to the action proposed at a hearing to be held at the State Capitol, Senate Room 113, at 10:30 a.m., on Thursday, May 19, 2011. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests, but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board of Chiropractic Examiners at its office no later than 5:00 p.m. on Monday, May 16, 2011.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1000-4(b) and 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii) and to implement, interpret or make specific Sections 1000-4(b), and 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii); the board is considering changes to Title 16, Division 4, of the California Code of Regulations as follows:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The Chiropractic Initiative Act Section 1000 – 4(b) authorizes the board to adopt regulations as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

This proposal would make regulatory changes to enhance protection of chiropractic consumers by establishing informed consent requirements in regulation. These changes would increase the Board's enforcement authority and enhance consumer protection by requiring Doctors of Chiropractic licensed in California to inform their patients of any known risks of serious bodily harm prior to initiating clinical care.

The Board is proposing to make the following changes:

1. Add Section 319.1(a)

This proposal would add Section 319.1(a) to set forth informed consent requirements for chiropractic care which may result in material risks to the patient. This section would define the term “material” as a procedure inherently involving known risk of serious bodily harm. This section would further require chiropractors to obtain written informed consent prior to initiating clinical care and require the signed written consent to become part of the patient’s record.

2. Add Section 319.1(b)

This section would define a violation of this section as unprofessional conduct for which the licensee may be subject to disciplinary action.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The Board initially determined that the proposed regulation would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impact on Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

This proposal will only affect licensees who do not currently obtain informed consent from patients whose treatment involves a known risk of serious bodily harm, who may incur minimal costs, if any, related to the creation of an informed consent form for use in their practice.

Effect on Housing Costs: None

Effect on Small Business:

The board has determined that this regulatory proposal will not impose a significant cost to small businesses.

This proposal will only affect licensees who do not currently obtain informed consent from patients whose treatment involves a known risk of serious bodily harm, who may incur minimal costs related to the creation of an informed consent form for use in their practice.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative that is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has all the information available upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all the information, upon which the proposal is based, may be obtained upon written request from:

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Fax (916) 263-5369
dixie.vanallen@CHIRO.ca.gov

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site, **www.chiro.ca.gov**.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: Dixie Van Allen, Program Analyst
Address: 2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
Telephone: (916) 263-5329
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The backup contact person is:

Name: Robert Puleo, Executive Officer
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Web Site Address: Materials regarding this proposal can be found at www.chiro.ca.gov.